

SENATE AMENDMENTS

2nd Printing

By: González of El Paso, King of Uvalde,
Stucky

H.B. No. 2817

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the prosecution of and punishment for the offense of
3 criminal mischief involving the death of a head of cattle or bison
4 or a horse.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 28.03, Penal Code, is amended by
7 amending Subsection (b) and adding Subsection (k) to read as
8 follows:

9 (b) Except as provided by Subsections (f) and (h), an
10 offense under this section is:

11 (1) a Class C misdemeanor if:

12 (A) the amount of pecuniary loss is less than
13 \$100; or

14 (B) except as provided in Subdivision (3)(A) or
15 (3)(B), it causes substantial inconvenience to others;

16 (2) a Class B misdemeanor if the amount of pecuniary
17 loss is \$100 or more but less than \$750;

18 (3) a Class A misdemeanor if:

19 (A) the amount of pecuniary loss is \$750 or more
20 but less than \$2,500; or

21 (B) the actor causes in whole or in part
22 impairment or interruption of any public water supply, or causes to
23 be diverted in whole, in part, or in any manner, including
24 installation or removal of any device for any such purpose, any

1 public water supply, regardless of the amount of the pecuniary
2 loss;

3 (4) a state jail felony if the amount of pecuniary loss
4 is:

5 (A) \$2,500 or more but less than \$30,000;

6 (B) less than \$2,500, if the property damaged or
7 destroyed is a habitation and if the damage or destruction is caused
8 by a firearm or explosive weapon;

9 (C) less than \$2,500, if the property was a fence
10 used for the production or containment of:

11 (i) cattle, bison, horses, sheep, swine,
12 goats, exotic livestock, or exotic poultry; or

13 (ii) game animals as that term is defined by
14 Section 63.001, Parks and Wildlife Code; or

15 (D) less than \$30,000 and the actor causes wholly
16 or partly impairment or interruption of public communications,
17 public transportation, public gas or power supply, or other public
18 service, or causes to be diverted wholly, partly, or in any manner,
19 including installation or removal of any device for any such
20 purpose, any public communications or public gas or power supply;

21 (5) a felony of the third degree if:

22 (A) the amount of the pecuniary loss is \$30,000
23 or more but less than \$150,000; or

24 (B) the actor, by discharging a firearm or other
25 weapon or by any other means, causes the death of one or more head of
26 cattle or bison or one or more horses;

27 (6) a felony of the second degree if the amount of

1 pecuniary loss is \$150,000 or more but less than \$300,000; or

2 (7) a felony of the first degree if the amount of
3 pecuniary loss is \$300,000 or more.

4 (k) Subsection (a)(1) or (2) does not apply if the tangible
5 personal property of the owner was a head of cattle or bison killed,
6 or a horse killed, in the course of the actor's:

7 (1) actual discharge of official duties as a member of
8 the United States armed forces or the state military forces as
9 defined by Section 437.001, Government Code; or

10 (2) regular agricultural labor duties and practices.

11 SECTION 2. The change in law made by this Act applies only
12 to an offense committed on or after the effective date of this Act.
13 An offense committed before the effective date of this Act is
14 governed by the law in effect on the date the offense was committed,
15 and the former law is continued in effect for that purpose. For
16 purposes of this section, an offense was committed before the
17 effective date of this Act if any element of the offense occurred
18 before that date.

19 SECTION 3. This Act takes effect September 1, 2017.

ADOPTED

MAY 24 2017

Leta Staw
Secretary of the Senate

By: Perry

H.B. No. 2817

Substitute the following for H.B. No. 2817:

By: *Ally*

C.S.H.B. No. 2817

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the prosecution of, punishment for, and deterrence of
3 certain offenses involving cattle, bison, or horses; authorizing an
4 administrative penalty; authorizing an assessment; increasing a
5 criminal penalty.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subtitle B, Title 6, Agriculture Code, is
8 amended by adding Chapter 153 to read as follows:

9 CHAPTER 153. PREVENTION AND INVESTIGATION OF CATTLE THEFT

10 Sec. 153.001. DEFINITIONS. In this chapter:

11 (1) "Association" means the Texas and Southwestern
12 Cattle Raisers Association.

13 (2) "Program" means the inspection program
14 established by department rule under Section 153.002.

15 Sec. 153.002. ESTABLISHMENT OF PROGRAM. (a) The
16 department by rule shall establish a cattle inspection program to
17 discourage and investigate property crimes involving cattle in this
18 state:

19 (1) on request by the association; and

20 (2) if a similar program authorized by federal law is
21 canceled, suspended, repealed, or otherwise scheduled for
22 discontinuation.

23 (b) The program must utilize existing cattle industry
24 infrastructure to the extent possible.

1 (c) The department shall establish an advisory committee to
2 advise the department on program rules. At least once every two
3 years, the advisory committee shall review the program rules and
4 submit findings and recommendations to the department.

5 Sec. 153.003. INSPECTIONS. Program rules must authorize
6 the special rangers appointed under Article 2.125, Code of Criminal
7 Procedure, and other association employees designated by the
8 special rangers, to inspect and record brands and other identifying
9 characteristics of cattle at livestock auction markets.

10 Sec. 153.004. ASSESSMENT. (a) Program rules must
11 establish a per-head regulatory assessment in an amount necessary
12 to reimburse the association for direct costs incurred under this
13 chapter.

14 (b) In determining the amount of the assessment, the
15 department shall consider:

16 (1) the amount of similar assessments or charges
17 authorized by the laws of other states or the United States;

18 (2) the direct operating costs of the program; and

19 (3) the expertise required to operate the program.

20 (c) On request by the association, the department shall
21 review the amount of the assessment and consider any necessary
22 revision.

23 (d) Each livestock auction market shall collect the
24 assessment and remit the amount collected to the association.

25 (e) Assessments collected under this section are not state
26 funds and are not required to be deposited in the state treasury.

27 (f) A person who has possession, custody, or control of an

1 assessment collected under this section and not remitted to the
2 association before the 31st day after the date collected is subject
3 to an administrative penalty in an amount provided by department
4 rule.

5 Sec. 153.005. STATE OVERSIGHT. (a) The department must
6 approve the association's budget for the program each year.

7 (b) The department shall review and act on the association's
8 budget for the program each year not later than the 45th day after
9 the date the association submits the budget to the department.

10 (c) The department or the state auditor may inspect the
11 association's financial records related to the program at any time.

12 SECTION 2. Section 28.03, Penal Code, is amended by
13 amending Subsection (b) and adding Subsection (k) to read as
14 follows:

15 (b) Except as provided by Subsections (f) and (h), an
16 offense under this section is:

17 (1) a Class C misdemeanor if:

18 (A) the amount of pecuniary loss is less than
19 \$100; or

20 (B) except as provided in Subdivision (3)(A) or
21 (3)(B), it causes substantial inconvenience to others;

22 (2) a Class B misdemeanor if the amount of pecuniary
23 loss is \$100 or more but less than \$750;

24 (3) a Class A misdemeanor if:

25 (A) the amount of pecuniary loss is \$750 or more
26 but less than \$2,500; or

27 (B) the actor causes in whole or in part

1 impairment or interruption of any public water supply, or causes to
2 be diverted in whole, in part, or in any manner, including
3 installation or removal of any device for any such purpose, any
4 public water supply, regardless of the amount of the pecuniary
5 loss;

6 (4) a state jail felony if the amount of pecuniary loss
7 is:

8 (A) \$2,500 or more but less than \$30,000;

9 (B) less than \$2,500, if the property damaged or
10 destroyed is a habitation and if the damage or destruction is caused
11 by a firearm or explosive weapon;

12 (C) less than \$2,500, if the property was a fence
13 used for the production or containment of:

14 (i) cattle, bison, horses, sheep, swine,
15 goats, exotic livestock, or exotic poultry; or

16 (ii) game animals as that term is defined by
17 Section 63.001, Parks and Wildlife Code; or

18 (D) less than \$30,000 and the actor causes wholly
19 or partly impairment or interruption of public communications,
20 public transportation, public gas or power supply, or other public
21 service, or causes to be diverted wholly, partly, or in any manner,
22 including installation or removal of any device for any such
23 purpose, any public communications or public gas or power supply;

24 (5) a felony of the third degree if:

25 (A) the amount of the pecuniary loss is \$30,000
26 or more but less than \$150,000; or

27 (B) the actor, by discharging a firearm or other

1 weapon or by any other means, causes the death of one or more head of
2 cattle or bison or one or more horses;

3 (6) a felony of the second degree if the amount of
4 pecuniary loss is \$150,000 or more but less than \$300,000; or

5 (7) a felony of the first degree if the amount of
6 pecuniary loss is \$300,000 or more.

7 (k) Subsection (a)(1) or (2) does not apply if the tangible
8 personal property of the owner was a head of cattle or bison killed,
9 or a horse killed, in the course of the actor's:

10 (1) actual discharge of official duties as a member of
11 the United States armed forces or the state military forces as
12 defined by Section 437.001, Government Code; or

13 (2) regular agricultural labor duties and practices.

14 SECTION 3. Section 28.03, Penal Code, as amended by this
15 Act, applies only to an offense committed on or after the effective
16 date of this Act. An offense committed before the effective date of
17 this Act is governed by the law in effect on the date the offense was
18 committed, and the former law is continued in effect for that
19 purpose. For purposes of this section, an offense was committed
20 before the effective date of this Act if any element of the offense
21 occurred before that date.

22 SECTION 4. This Act takes effect September 1, 2017.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 25, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2817 by González, Mary (Relating to the prosecution of, punishment for, and deterrence of certain offenses involving cattle, bison, or horses; authorizing an administrative penalty; authorizing an assessment; increasing a criminal penalty.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend Texas Agriculture Code by adding Chapter 153 regarding the prevention and investigation of cattle theft. The bill would require the Texas Department of Agriculture (TDA) to establish a cattle inspection program by rule to discourage and investigate property crimes involving cattle if the Texas and Southwestern Cattle Raisers Association requests such a program, or if a similar program authorized by federal law is canceled, suspended, repealed, or otherwise scheduled for discontinuation. If the program were to be established, TDA would be required to establish an advisory committee to recommend program rules; program rules would authorize special rangers and other association employees designated by special rangers to inspect and record brands and other identifying characteristics of cattle at livestock auction markets; program rules would also establish a per-head regulatory assessment in an amount necessary to reimburse the association for costs incurred by the program, to be determined by TDA. These assessments would not be required to be deposited to the state treasury. The bill would authorize administrative penalties if the regulatory assessment is not remitted to the association in a timely manner. TDA would be required to review and approve the association's budget for the program each year within a specified time frame. TDA or the State Auditor's Office (SAO) would be allowed to inspect the association's financial records related to the program at any time.

The bill would amend the Penal Code as it relates to the punishment for the offense of criminal mischief involving the death of a head of cattle or bison or horse. Under the provisions of the bill, criminal mischief involving the death of one or more of certain animals would be punishable as a third degree felony. The bill would apply only to an offense committed on or after the effective date of the Act. The bill would take effect immediately if it receives a vote of two-thirds of all members elected to each house, or September 1, 2017.

TDA estimates that any costs associated with rulemaking or with the program could be absorbed using existing resources. The Comptroller estimates that any increase in state revenue from administrative penalties cannot be determined.

The Office of Court Administration and the Texas Department of Criminal Justice indicate they do not anticipate a significant fiscal impact.

This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety, 551 Department of Agriculture

LBB Staff: UP, SD, SZ, MSO

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 18, 2017

TO: Honorable Charles Perry, Chair, Senate Committee on Agriculture, Water & Rural Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB2817** by González, Mary (relating to the prosecution of, punishment for, and deterrence of certain offenses involving cattle, bison, or horses; authorizing an administrative penalty; authorizing an assessment; increasing a criminal penalty.),
Committee Report 2nd House, Substituted

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Penal Code as it relates to the punishment for the offense of criminal mischief involving the death of a head of cattle or bison or horse. Under the provisions of the bill, criminal mischief involving the death of one or more of certain animals would be punishable as a third degree felony. The bill would apply only to an offense committed on or after the effective date of the Act. The bill would take effect immediately if it receives a vote of two-thirds of all members elected to each house, or September 1, 2017.

TDA estimates that any costs associated with rulemaking or with the program could be absorbed using existing resources. The Comptroller estimates that any increase in state revenue from administrative penalties cannot be determined.

The Office of Court Administration and the Texas Department of Criminal Justice indicate they do not anticipate a significant fiscal impact.

This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety, 551 Department of Agriculture

LBB Staff: UP, SZ, MSO

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 12, 2017

TO: Honorable Charles Perry, Chair, Senate Committee on Agriculture, Water & Rural Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2817 by González, Mary (Relating to the prosecution of and punishment for the offense of criminal mischief involving the death of a head of cattle or bison or a horse.),
As Engrossed

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code as it relates to the punishment for the offense of criminal mischief involving the death of a head of cattle or bison or horse. Under the provisions of the bill, criminal mischief involving the death of one or more of certain animals would be punishable as a third degree felony.

The Office of Court Administration and the Texas Department of Criminal Justice indicate they do not anticipate a significant fiscal impact.

This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources. The bill would take effect on September 1, 2017 and apply only to an offense committed on or after the effective date of the Act.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 696
Department of Criminal Justice

LBB Staff: UP, SZ, LM, ZB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 18, 2017

TO: Honorable Tracy O. King, Chair, House Committee on Agriculture & Livestock

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2817 by González, Mary (relating to the prosecution of and punishment for the offense of criminal mischief involving the death of a head of cattle or bison or a horse.),
Committee Report 1st House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code as it relates to the punishment for the offense of criminal mischief involving the death of a head of cattle or bison or horse. Under the provisions of the bill, criminal mischief involving the death of one or more of certain animals would be punishable as a third degree felony.

The Office of Court Administration and the Texas Department of Criminal Justice indicate they do not anticipate a significant fiscal impact.

This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources. The bill would take effect on September 1, 2017 and apply only to an offense committed on or after the effective date of the Act.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 696
Department of Criminal Justice

LBB Staff: UP, SZ, LM, ZB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 3, 2017

TO: Honorable Tracy O. King, Chair, House Committee on Agriculture & Livestock

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2817 by González, Mary (Relating to the punishment for the offense of criminal mischief involving the death of a head of cattle or a horse.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code as it relates to the punishment for the offense of criminal mischief involving the death of a head of cattle or a horse. Under the provisions of the bill, criminal mischief involving the death of a head of cattle or a horse would be punishable as a third degree felony.

The Office of Court Administration and the Texas Department of Criminal Justice indicate the provisions of the bill could be implemented within existing resources.

This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources. The bill would take effect on September 1, 2017 and apply only to an offense committed on or after the effective date of the Act.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 696
Department of Criminal Justice

LBB Staff: UP, SZ, LM, ZB

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

May 19, 2017

TO: Honorable Charles Perry, Chair, Senate Committee on Agriculture, Water & Rural Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2817 by González, Mary (relating to the prosecution of, punishment for, and deterrence of certain offenses involving cattle, bison, or horses; authorizing an administrative penalty; authorizing an assessment; increasing a criminal penalty.), **Committee Report 2nd House, Substituted**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code as it relates to the punishment for the offense of criminal mischief involving the death of a head of cattle, bison, or horses. Certain criminal penalties would not be applicable if certain animals were killed by certain individuals while in the discharge of certain official or regular duties. Under the provisions of the bill, criminal mischief involving the death of one or more head of cattle, bison, or horses would be punishable by a third degree felony.

A third degree felony is punishable by confinement in prison for a term from 2 to 10 years, in addition to confinement, an optional fine not to exceed \$10,000.

Expanding the list of behaviors for which a criminal penalty is applied is expected to result in increased demands on the correctional resources of counties or of the State due to a potential increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. In fiscal year 2016, 56 individuals were arrested, fewer than 10 were placed under felony community supervision, and fewer than 10 were admitted into state correctional institutions for the offense of criminal mischief under existing statute punishable as a third degree felony. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Source Agencies:

LBB Staff: UP, LM, ZB

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

May 12, 2017

TO: Honorable Charles Perry, Chair, Senate Committee on Agriculture, Water & Rural Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2817 by González, Mary (Relating to the prosecution of and punishment for the offense of criminal mischief involving the death of a head of cattle or bison or a horse.), **As Engrossed**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code as it relates to the punishment for the offense of criminal mischief involving the death of a head of cattle or bison or horse. Certain criminal penalties would not be applicable if certain animals were killed by certain individuals while in the discharge of certain official or regular duties. Under the provisions of the bill, criminal mischief involving the death of one or more head of cattle or bison or one or more horses would be punishable as a third degree felony.

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Source Agencies:

LBB Staff: UP, LM, ZB

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

April 18, 2017

TO: Honorable Tracy O. King, Chair, House Committee on Agriculture & Livestock

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2817 by González, Mary (relating to the prosecution of and punishment for the offense of criminal mischief involving the death of a head of cattle or bison or a horse.),
Committee Report 1st House, Substituted

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Source Agencies:

LBB Staff: UP, LM, ZB

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

April 3, 2017

TO: Honorable Tracy O. King, Chair, House Committee on Agriculture & Livestock

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2817 by González, Mary (Relating to the punishment for the offense of criminal mischief involving the death of a head of cattle or a horse.), **As Introduced**

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Expanding the list of behaviors for which a criminal penalty is applied is expected to result in increased demands upon the correctional resources of counties or of the State due to a potential increase in the number of individuals sentenced to a term of supervision in the community or a term of confinement within state correctional institutions. In fiscal year 2016, 56 individuals were arrested, fewer than 10 were placed under community supervision, and fewer than 10 were admitted into state correctional institutions for the offense of criminal mischief under existing statute punishable as a third degree felony. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

Source Agencies:

LBB Staff: UP, LM, ZB